

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP., d/b/a LIBERTY UTILITIES | DOCKET NO. RPU-2016-0003 (TF-2016-0303, TF-2016-0304, TF-2016-0305, TF-2016-0306) |
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**ORDER APPROVING CORPORATE UNDERTAKING, DOCKETING PROPOSED
TARIFFS, REQUIRING ADDITIONAL INFORMATION, AND ESTABLISHING
PROCEDURAL SCHEDULE**

(Issued August 16, 2016)

On July 25, 2016, Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities (Liberty or Liberty Utilities), filed with the Utilities Board (Board) an application to increase its annual revenues by approximately \$1 million, or approximately 61.3 percent, pursuant to Iowa Code § 476.6 and chapter 26 of the Board's administrative rules. Liberty's application was identified as Docket No. RPU-2016-0003. Liberty filed proposed tariff revisions, identified as TF-2016-0304, TF-2016-0305, and TF-2016-0306, which would implement the rate increase in three phases, with the full increase in effect as specified in TF-2016-0306.

Liberty also filed a tariff, identified as TF-2016-0303, which increases the company's annual revenues on a temporary basis in the amount of \$528,569.50. Pursuant to Iowa Code § 476.6(9)(b), Liberty implemented the temporary rates on August 4, 2016, ten days after the July 25, 2016, filing. The temporary rates are subject to refund. In lieu of a bond, Liberty submitted a corporate undertaking in the

amount of \$528,569.50, an amount equal to the anticipated annual increase in revenues under the temporary rates.

Iowa Code § 476.6(9)(b) provides that if a utility chooses to place temporary rates into effect without prior Board review, the utility shall file a bond or corporate undertaking approved by the Board. Liberty agrees in its corporate undertaking to refund any excess revenues, plus interest, that it collects to the extent that temporary rates exceed the final rates approved by the Board in this proceeding. Liberty's corporate undertaking in the amount equal to the projected amount of its interim revenue increase satisfies the requirement of Iowa Code § 476.6(9)(b). The Board will approve Liberty's corporate undertaking filed on July 25, 2016.

Liberty states in its application that the most significant factors contributing to its need for increased revenue are increased investment totaling \$4 million in total plant in service since the last rate case and a 40 percent decline in revenue caused largely by declining gas consumption and population. Liberty asserts that to attract capital on reasonable terms, which is necessary for Liberty to be able to provide safe and reliable gas service, its financial condition must improve.

On August 5, 2016, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, filed an objection to the rate application and a request that the Board docket the application and establish a procedural schedule to allow sufficient time for OCA and interested parties to investigate the application.

According to OCA, the revenue requirement and rate design issues raised by Liberty's voluminous application will require a thorough investigation.

Board rule 26.5 specifies rate case filing requirements for rate-regulated utilities, including requirements relating to revenue requirements, capital structure, income tax returns, and testimony and exhibits. The Board has identified several deficiencies in Liberty's filing. Liberty will be required to file the following additional information, either to correct filing deficiencies or to provide information necessary for the Board's review of the application:

1. *Excel Files in Native Format.* Liberty's filing does not include Excel versions of all Excel files. For example, Liberty filed Lyons Exhibits 1 through 10 as a combined PDF. Several of those exhibits are PDF versions of Excel files. While it is helpful for the Board to have the combined PDF version of the exhibits, the Board must also have the Excel files with all cell formulae and cell references in order to analyze the details of the case. The Board will direct Liberty to refile, in Excel format including all cell formulae and cell references, the Excel-based files that have been filed to date. The requirement to provide Excel-based files in Excel format including all cell formulae and cell references applies to all parties going forward.

2. *Cost of Service Study.* With respect to the cost of service study (COSS) filed in this docket, Liberty witness Lyons states the following:

The COSS included in this testimony was generally based on the methodology filed and approved by the Board in

Docket No. RPU-95-14, the Company's 1995 rate case proceeding before the Board.¹

Because the COSS filed in this docket is based on the COSS from the 1995 case, the Board will direct Liberty to provide the 1995 study in Excel format with live formulae and cell references.

3. The Board's rule at 199 IAC 26.5(5)(e)(3) requires evidence of capital structure calculated using a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis. Liberty must provide this information for its parent company, as required by 199 IAC 26.5(5)(e)(23), which provides the following:

If the utility which has filed for the rate increase is affiliated with another company as either a parent or subsidiary, the information required in subparagraphs (3), (4), (6), (13), to (19), and (21) shall be provided for the parent company (if any) and for all affiliates which are not included in the consolidating financial statements filed pursuant to this rule.

4. The Board's rule at 199 IAC 26.5(5)(e)(4) requires schedules supporting the proposed capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure, and schedules showing requested return on rate base with capital structure and corresponding capital cost.

a. In Magee Direct Exhibit KM-3, the proposed cost of debt is 4.83 percent. In his direct testimony, Mr. Magee references the minimum filing

¹ Lyons Direct, p. 11, lines 3 through 5.

requirement in subparagraph 26.5(5)(e)(13) as the source of this percentage value. In its preliminary review of the filing, the Board cannot find documentation showing how that cost was determined. The Board will require Liberty to provide the schedule showing how the long-term debt cost rate used in Liberty's proposed capital structure was calculated.

b. Magee Direct Exhibit KM-2, Schedule 12, provides the common equity ratio of 53.74 percent for Algonquin Power & Utilities Co. (Algonquin). The notes state that Algonquin data were based on quarterly SEC filings, as reported by SNL Financial. The Board will require Liberty to provide a schedule showing how Algonquin's common equity ratio was determined.

5. The Board's rule at 199 IAC 26.5(5)(e)(5) addresses cash working capital requirements, including a recent lead-lag study which accurately represents conditions during the test period. A lead-lag study is defined in the rule as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility. Before filing its application, Liberty requested a waiver of the requirement to undertake its own lead-lag study and asked that the Board allow the use of the revenue lag and expense lead factors determined in the most recent lead-lag study approved by the Board in a gas utility rate case, *In re: Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy*, Docket No. RPU-2010-0002. In an order issued on March 25, 2016, in Docket No. WRU-2016-0006-0222, the Board granted Liberty's requested waiver.

In its July 25 filing, Liberty provides a summary cash working capital page but does not provide the lead-lag study from the Black Hills case. To ensure that the Board can confirm Liberty's calculations, the Board will direct Liberty to either file the lead-lag study it used to develop its cash working capital requirements or provide a webpage link to the location of the study on the Board's electronic filing system (EFS).

6. The Board's rule at 199 IAC 26.5(5)(e)(6) requires the utility to provide complete federal and state income tax returns for the two calendar years preceding the year of the filing and all amendments to those returns. If a tax return or amendment has not been prepared at the time of filing, the return shall be filed with the Board at the time it is filed with the Internal Revenue Service or the Iowa Department of Revenue. Liberty provides the complete federal and state income tax returns from 2013 and 2014. These are the two years preceding the test year, not the two years preceding the filing, which was made in 2016. Having already provided returns from 2014, Liberty must provide complete federal and state income tax returns from 2015.

7. The Board's rule at 199 IAC 26.5(5)(e)(9) requires schedules showing that the rates proposed will produce the revenues requested. In addition to these schedules, the utility must also submit a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect costs, the narrative should state how that objective is achieved, and should

be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect costs, a statement should be furnished justifying the departure from cost-based rates.

Liberty's response to this item refers to Lyons Direct Exhibit 2 for the schedules showing that the proposed rates will produce the revenues requested. That exhibit does not provide the required information. Also, the evidence filed in response to this requirement does not include the required narrative. The Board will direct Liberty to provide the missing information, including the narrative statement.

8. The Board's rule at 199 IAC 26.5(5)(e)(13) requires a schedule showing interest rates, dividend rates, amortizations of discount and premium and expense, and unamortized 13 monthly balances of discount and premium and expense, ending on December 31 of the year preceding the year of filing, for long-term debt and preferred stock. In response to this requirement, Liberty provides a copy of each debt's note purchase agreement. However, the rule requires a schedule that includes the data specified in the rule.

It appears that Liberty provides the data required by 199 IAC 26.5(5)(e)(13) in a schedule provided in response to rule 26.5(5)(e)(4). In that schedule, Liberty shows amortization of long-term debt expense for Liberty Utilities but does not show corresponding unamortized balances for long-term debt expense. The Board will direct Liberty to provide either 13 monthly balances of unamortized long-term debt

expense or an explanation as to why there are no unamortized balances. Liberty must also provide data for its parent company.

In the schedule provided in response to 199 IAC 26.5(5)(e)(4), Liberty shows that the year-end balance for each long-term debt equals the 13-month average balance. However, in the information provided in response to the rule 26.5(5)(e)(3) minimum filing requirement, the monthly long-term debt balances change from month to month. It appears that the year-end long-term debt balance and 13-month average capital structure ratios are not the same between the schedules. The Board will direct Liberty to address these inconsistencies.

9. The Board's rule at 199 IAC 26.5(5)(e)(14) requires a schedule showing the 13 monthly balances of capital stock expense associated with common stock, ending on December 31 of the year preceding the year of filing. Liberty states that it did not have any capital stock expense associated with common preferred stock ending on December 31, 2015. Liberty's filing does not meet the requirement of rule 26.5(5)(e)(14), which refers to capital stock expense associated with common stock, not common preferred stock. The Board will direct Liberty to provide capital stock expense for Liberty's common stock, if any. Liberty must also provide the same information for its parent company.

10. The Board's rule at 199 IAC 26.5(5)(e)(15) requires a schedule showing the 13 monthly balances of capital surplus separated between common and preferred stock, ending on December 31 of the year preceding the year of filing.

Liberty states that the 13 monthly balances of capital stock surplus associated with common preferred stock, ending December 31, 2015, are found in an attached schedule. The Board cannot locate the schedule in EFS. The Board will direct Liberty to provide a schedule showing capital surplus separated between common and preferred stock as described in IAC 199 26.5(5)(e)(15) for Liberty and for its parent company. Also, if either Liberty or its parent have capital stock surplus for preferred stock, Liberty shall provide the data required under 199 IAC 26.5(5)(e)(3) and 26.5(5)(e)(13) regarding preferred stock.

11. The Board's rule at 199 IAC 26.5(5)(e)(22) requires a utility applying for a gas rate increase to provide a schedule for weather normalization, including details of the method used. Liberty requested a waiver of the requirement to conduct a weather normalization study and asked that it be allowed instead to use the weather normalization data with which it prepares its monthly purchased gas adjustment filings, over the course of the proposed test year (2015), including heating degree day data and monthly gas sales by customer class. In an order issued on March 25, 2016, in Docket No. WRU-2016-0006-0222, the Board granted Liberty's requested waiver.

In direct testimony Liberty witness Schwartz sponsors Liberty's weather normalization adjustment to revenues and consumption and references Exhibit JMS 3, Schedule 4. This schedule provides monthly weather normalized volumes and actual volumes by customer class for the 2015 test year. However, in order for the

Board to verify billing units, the Board must have the spreadsheet containing the weather normalization model and inputs used to produce those results. This spreadsheet should be readily available to Liberty since Liberty provided the results produced by the model. The Board will direct Liberty to provide the weather normalization spreadsheet containing the weather normalization model and inputs used to produce those results.

To allow the Board time to fully consider Liberty's proposed rate increase, the Board will suspend the proposed tariff revisions identified as TF-2016-0304, TF-2016-0305, and TF-2016-0306. The proposed increase and corresponding tariff revisions will be docketed as a formal proceeding, identified as Docket No. RPU-2016-0003. The Board will set a procedural schedule for the filing of testimony and briefs and will schedule a hearing.

As the parties may be aware, the Board no longer spreads prefiled testimony on the record at hearings. Instead, prefiled testimony is marked as exhibits. In light of this change in practice, before the hearing, parties should mark the prefiled prepared testimony and exhibits as follows:

1. Prefiled prepared testimony should be marked with the last name of the witness and identified as Direct, Reply, Rebuttal, or Surrebuttal.
2. Schedules that are over 50 pages, which should be filed separately, and Exhibits filed in support of the prefiled prepared testimony should be

marked with the last name of the witness, identified as Direct, Reply, Rebuttal, or Surrebuttal, and marked with the Schedule or Exhibit number.

3. Exhibits offered during direct or cross examination should be marked with the name of the party and the predetermined Exhibit number.

In addition, parties are required to provide one copy of prefiled prepared testimony and supporting exhibits to the court reporter at the hearing. Parties are also required to provide one copy of any exhibit offered for the first time at the hearing to the court reporter, three copies to the Board, three copies to Board staff, and to make additional copies available to opposing counsel. Exhibits not previously filed in EFS prior to hearing shall be filed in EFS within three days of the conclusion of the hearing.

Finally, the Board notes that in a separate order issued in Docket No. RN-2016-0001 on July 21, 2016, the Board approved Liberty's customer notice and scheduled a customer comment meeting. The customer comment meeting will be held on September 15, 2016, beginning at 5:30 p.m., at Hawthorne Elementary School in Keokuk, Iowa. The meeting will provide an opportunity for Liberty's customers to express their views about Liberty's application for a rate increase.

IT IS THEREFORE ORDERED:

1. The Motion for Approval of Corporate Undertaking filed by Liberty Utilities on July 25, 2016, is approved as discussed in the body of this order.

2. An investigation is instituted to determine the reasonableness of the

proposed permanent rate increase filed by Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities, identified as TF-2016-0304, TF-2016-0305, and TF-2016-0306. This matter will be identified as Docket No. RPU-2016-0003, a formal contested case proceeding. The expenses reasonably attributable to this investigation shall be assessed to Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities, in accordance with Iowa Code § 476.10.

3. The tariff implementing temporary rates identified as TF-2016-0303 became effective, subject to refund, on August 4, 2016, pursuant to Iowa Code § 476.6(9)(b).

4. The proposed tariffs designed to implement a permanent rate increase in three phases, identified as TF-2016-0304, TF-2016-0305, and TF-2016-0306, are suspended pursuant to Iowa Code § 476.6.

5. Liberty Utilities shall correct the rate case filing deficiencies identified in the body of this order and provide all other information identified in this order within ten days of the date of this order.

6. The following procedural schedule is established:

a. Applications to intervene shall be filed on or before August 30, 2016.

b. The parties shall notify the Board prior to September 12, 2016, if they desire a prehearing conference.

c. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and any intervenors shall file prepared direct testimony, with underlying workpapers and exhibits, on or before October 26, 2016. If a party references a data request in its prepared testimony, the data request shall be filed as an exhibit.

d. If the OCA and any intervenors find it necessary to file testimony in rebuttal to each other's direct testimony, they may file rebuttal testimony on or before November 9, 2016.

e. Liberty Utilities shall file its reply testimony, with underlying workpapers and exhibits, on or before December 14, 2016.

f. OCA and any intervenors shall file reply testimony on any issue raised initially in their direct testimony and responded to by another party on or before January 6, 2017.

g. The parties shall file a joint statement of the issues on or before January 13, 2017.

h. Any party choosing to file a prehearing brief may do so on or before January 20, 2017.

i. A hearing shall be held beginning at 9 a.m. on February 22, 2017, for the purpose of receiving testimony and for the cross-examination of witnesses. The Board has reserved two days for the hearing. The hearing shall be held in the Board's Hearing Room on the first floor, 1375 E. Court

Avenue, Room 69, Des Moines, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515) 725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

j. The parties may file simultaneous initial briefs on or before March 23, 2017.

k. All parties who filed initial briefs may file reply briefs on or before April 6, 2017.

7. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

8. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination that have not been previously filed shall become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file one copy of the data request and response with the Board at the earliest possible time.

9. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the evidentiary record will be reopened and the evidence will become part of the record three days after the evidence is filed with the Board. All evidence filed pursuant to

this paragraph shall be filed no later than three days after the close of the hearing in this proceeding.

10. Prefiled prepared testimony and exhibits shall be marked for admission into the record at hearing as described in this order.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 16th day of August 2016.